



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

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Contact Person:

509.02-02

509.03-00

Telephone Number:

Employer Identification Number:

Legend:

Trust =
Corporation =
State =
City =
Supporting Organization =
Year =

Dear

We have considered your revised request dated August 11, 2009 for a ruling that the Supporting Organization will qualify as a supporting organization of the Trust and the Corporation under Section 509(a)(3) of the Internal Revenue Code ("the Code").

FACTS

The Supporting Organization was incorporated as a State not-for-profit corporation for the purpose of improving the lives of the people of the greater metropolitan City area. The Internal Revenue Service recognized the Supporting Organization as an organization described in section 501(c)(3) and as a section 509(a)(3) supporting organization of the Corporation because it is operated, supervised, or controlled by the Corporation.

Since its inception the Supporting Organization has been organized and operated to carry out the functions of and to be an affiliate of the Corporation and its affiliate, the Trust by providing support to the inhabitants of the greater City metropolitan area. The original Articles of Incorporation of the Supporting Organization provided that the Supporting Organization is established and operated to perform the functions of or to carry out the purposes of the Corporation. As a part of its ruling request, Supporting Organization amended its Articles of Incorporation to also name Trust as a supported organization. Since Year, the Trust, Corporation and Supporting Organization have been improving the lives of the metropolitan City by retaining and building City's philanthropic resources.

The Trust was formed for the benefit of the residents of the greater City. The Corporation was created for the purpose of providing additional flexibility to donors with respect to the investment of funds and to broaden the geographic area served.

Corporation is a not-for-profit corporation organized under State law for the purpose of improving the lives of the people of metropolitan City. The Internal Revenue Service recognized Corporation as an organization described in section 501(c)(3) of the Code and classified it as a public charity described in sections 509(a)(1) and 170(b)(1)(A)(vi). The Corporation was formed by the executive committee of the Trust and was funded with assets from the Trust. By virtue of a reorganization of Trust and Corporation, Corporation will be treated as a component part of the Trust.

The Bylaws of the Supporting Organization provide that the Trust and Corporation will be its members and that the Class A directors, appointed by the members, shall at all times constitute a majority of the Board of Directors. The Class B directors are elected by a majority vote of the Board of Directors. Since the members of the executive committee of the Trust are the Directors of the Corporation, the executive committee of the Trust will elect a majority of the directors of the Supporting Organization. In effect, the Trust will supervise and control the Supporting Organization.

RULING REQUESTED

The Supporting Organization qualifies as a section 509(a)(3) supporting organization of the Trust and Corporation.

LAW

Section 509(a)(3) of the Code provides that the term private foundation means an organization described in section 501(c)(3) other than an organization which:

(A) is organized, and at all times thereafter is operated, exclusively for the benefit of, to perform the functions of, or to carry out the purposes of one or more specified organizations described in section 509(a)(1) or (2),

(B) is (i) operated, supervised, or controlled by one or more organizations described in section 509(a)(1) or (2), (ii) supervised or controlled in connection with one or more such organizations, or (iii) operated in connection with one or more such organizations, and

(C) is not controlled directly or indirectly by one or more disqualified persons (as defined in section 4946) other than foundation managers and other than one or more organizations described in section 509(a)(1) or (2).

Section 509(f)(3) of the Code provides that the term supported organization means, with respect to an organization described in subsection (a)(3), an organization described in paragraph (1) or (2) of subsection (a);

(A) for whose benefit the organization described in subsection (a)(3) is organized and operated, or

(B) with respect to which the organization performs its functions, or carries out its purposes.

Section 1.509(a)-4(a)(2) of the Income Tax Regulations ("regulations") states that section 509(a)(3)(A) of the Code provides that a section 509(a)(3) organization must be organized, and at all times thereafter operated, exclusively for the benefit of, to perform the functions of, or to carry out the purposes of one or more specified organizations described in section 509(a) (1) or (2).

Section 1.509(a)-4(a)(3) of the regulations explains that section 509(a)(3)(B) of the Code requires that a section 509(a)(3) organization must be operated, supervised, or controlled by or in connection with one or more organizations described in section 509(a) (1) or (2). Section 509(a)(3)(B) and paragraph (f) of this section describe the nature of the relationship which must exist between the section 509(a)(3) organizations.

Section 1.509(a)-4(d)(2)(iv) provides that a supporting organization will meet the requirements of subparagraph (1) of this paragraph even though its articles do not designate each of the specified organizations by name if:

(a) There has been an historic and continuing relationship between the supporting organization and the section 509(a) (1) or (2) organizations, and

(b) By reason of such relationship, there has developed a substantial identity of interests between such organizations.

Section 1.509(a)-4(f)(1) of the regulations provides that in general, section 509(a)(3)(B) describes the nature of the relationship required between a section 501(c)(3) organization and one or more publicly supported organizations in order for such section 501(c)(3) organization to qualify under the provisions of section 509(a)(3).

Section 1.509(a)-4(f)(2) of the regulations provides that section 509(a)(3)(B) sets forth three different types of relationships, one of which must be met in order to meet the requirements of subparagraph (1) of this paragraph. Thus, a supporting organization may be:

(i) Operated, supervised, or controlled by,

(ii) Supervised or controlled in connection with, or

(iii) Operated in connection with, one or more publicly supported organizations.

Section 1.509(a)-4(f)(4) of the regulations provides a general description of relationships. In the case of supporting organizations which are operated, supervised, or controlled by one or more publicly supported organizations, the distinguishing feature is the presence of a substantial degree of direction by the publicly supported organizations over the conduct of the supporting organization, as described in paragraph (g) of this section.

Section 1.509(a)-4(g)(1)(i) of the regulations explains that the meaning of operated by,

supervised by, and controlled by presupposes a substantial degree of direction over the policies, programs, and activities of a supporting organization by one or more publicly supported organizations, comparable to that of a parent and subsidiary, where the subsidiary is under the direction of, and accountable or responsible to, the parent organization. This relationship is established by the fact that a majority of the officers, directors, or trustees of the supporting organization are appointed or elected by the governing body, members of the governing body, officers acting in their official capacity, or the membership of one or more publicly supported organizations.

ANALYSIS

A supporting organization is an organization which is organized, and at all times thereafter is operated, exclusively for the benefit of, to perform the functions of, or carry out the purposes of one or more specified public charities described in sections 509(a)(1) or 509(a)(2) of the Code. The Internal Revenue Service has recognized the Supporting Organization as an organization described as a section 509(a)(3) supporting organization of the Corporation.

The Supporting Organization will continue to be operated, supervised, or controlled by the Trust and Corporation as required under section 1.509(a)-4(f)(2) of the Regulations, even though the Corporation will now be a component part of the Trust. The facts and representations made by the Supporting Organization establish that Trust and Supporting Organization have had a historic and continuing relationship and there has been a substantial identity of interest between the organizations. Sections 1.509(a)-4(d)(2)(iv)(a) and (b) of the regulations. In addition, Supporting Organization has amended its Articles of Incorporation to specifically name Trust in its articles.

The distinguishing feature of an organization that is operated, supervised, or controlled by another organization is the presence of a substantial degree of direction by the publicly supported organizations (in this case the Trust) over the conduct of the supporting organization. Section 1.509(a)-4(f)(4) of the regulations. The Bylaws of the Supporting Organization provide that the Trust and Corporation will be its members. Corporation is a component part of the Trust and the members of the Executive Committee of the Trust serve as the Directors of the Corporation. Thus, the Trust controls the Corporation including its function as a member of the Supporting Organization. Supporting Organization's bylaws state that the Class A directors shall at all time constitutes a majority of the Board of Directors. All Class A directors are appointed by the Trust and Corporation, as the members. The Class B directors are elected by a majority vote of the Board of Directors.

The Trust and Corporation will continue to have a substantial degree of direction over the conduct of the Supporting Organization because the Trust and Corporation will appoint a majority of the directors, in their capacity as members. Section 1.509(a)-4(g)(1)(i) of the Regulations.

Therefore, even though the Corporation is recognized as a component part of the Trust, a single entity community trust, the Supporting Organization's status as a supporting organization of Trust based on the historic and continuing relationship, and of Corporation as described in

section 509(a)(3) will not be adversely affected.

RULING

Based on the facts and representations:

The Supporting Organization qualifies as a Section 509(a)(3) supporting organization of the Trust and Corporation.

This ruling will be made available for public inspection under section 6110 of the Code after certain deletions of identifying information are made. For details, see enclosed Notice 437, *Notice of Intention to Disclose*. A copy of this ruling with deletions that we intend to make available for public inspection is attached to Notice 437. If you disagree with our proposed deletions, you should follow the instructions in Notice 437.

This ruling is directed only to the organization that requested it. Section 6110(k)(3) of the Code provides that it may not be used or cited by others as precedent.

This ruling is based on the facts as they were presented and on the understanding that there will be no material changes in these facts. This ruling does not address the applicability of any section of the Code or regulations to the facts submitted other than with respect to the sections described. Because it could help resolve questions concerning your federal income tax status, this ruling should be kept in your permanent records.

If you have any questions about this ruling, please contact the person whose name and telephone number are shown in the heading of this letter.

In accordance with the Power of Attorney currently on file with the Internal Revenue Service, we are sending a copy of this letter to your authorized representative.

Sincerely,

Ronald Shoemaker
Manager, Exempt Organizations
Technical Group 2

Enclosure
Notice 437